



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Chapter 9.18 "Vending on Streets, Sidewalks and Private Property", Section 9.18.050-A-I. Relating to Location; and Repealing and Reenacting Section 9.18.110 in its entirety relating to Sanitation.

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Introduce Ordinance amending Lodi Municipal Code Chapter 9.18 "Vending on Streets, Sidewalks and Private Property", Section 9.18.050-A-1 relating to location; and repealing and reenacting Section 9.18.110 in its entirety relating to sanitation.

BACKGROUND INFORMATION: In July of 2007, the City Council approved a new set of comprehensive regulations covering the vending of produce and prepared or prepackaged foods, goods, wares, and/or services on public streets, sidewalks or alleys and on private property.

Those regulations, covered under a revised Chapter 9.18 of the Lodi Municipal Code, more commonly referred to as the "Vending Ordinance", cover all facets of vending activities from the lunch wagons that operate either from a fixed location or an established route, to push cart and motorized ice cream and food vendors, and to the itinerant merchants who sell a variety of flags, statues, flowers and other wares during weekends and around holidays.

On July 16, 2008, the Vending Ordinance was brought back before the City Council for review. At that meeting, Staff recommended that the City Council consider revising the regulation that pertains to vendors operation around City parks. Vendors operating from the street or sidewalk are currently restricted from operating "within three hundred feet of any school grounds, park, playground, or city operated recreation center". This language was taken from the regulations of another jurisdiction and it applies mainly to ice cream trucks and push cart vendors. Staff felt that it may be reasonable to allow vendors around City parks, considering that the regulations pertaining to proximity to other vendors and the requirement to move every ten minutes still would provide adequate protection from over-concentration of vendors in one park and would prevent them from lingering too long in one location, thereby maintaining a decent park atmosphere for families.

The City Council did provide direction to amend that language, with an additional condition that would prohibit vendors from operating near those parks where City-authorized food concessions were in operation. Subsequent to that Council meeting, Staff also received comment from the Parks Superintendent stating that he would prefer that vendors only be allowed to operate from the

APPROVED: _____

Blair King, City Manager

street/sidewalk around the parks and not from the park interiors. The attached proposed Ordinance language incorporates those conditions.

While not mentioned at the July 16th meeting, Staff has noted an erroneous reference to the State Health and Safety Code within one portion of the Vending Ordinance that does need to be corrected. Section 9.18.110 (C) states that, “A motorized food wagon or conveyance shall comply with California Health and Safety Code Section 114299.5 regarding the availability of adequate toilet facilities for use by food service personnel.” The reference to the Health and Safety Code should be to Section 114315. The attached proposed Ordinance language incorporates that correction.

FISCAL IMPACT: No fiscal impact.

FUNDING AVAILABLE: N/A



Joseph Wood, Interim Co-Director
Community Development Department

Attachment

Attachment "A"

9.18.050 Location.

A. A vendor may locate and operate in the public right-of-way subject to the following conditions:

1. A vendor shall not operate within three hundred feet of: ~~any school grounds, park, playground, or city operated recreation center.~~

a.) school grounds; or

b.) a park, playground, or city operated recreation center where a City-authorized food concession exists. Where permissible, vendor operations at City parks shall be restricted to the streets and sidewalks around the perimeter of the parks.

9.18.110 Sanitation.

A. All motorized food wagons or conveyances shall operate out of a commissary pursuant to California Health and Safety Code Section 114287.

B. All motorized food wagons or conveyances shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the vendor of the motorized food wagon or conveyance shall pick up all refuse generated by such operation within a twenty-five foot radius of the vehicle before such vehicle is moved. No vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.

C. A motorized food wagon or conveyance shall comply with California Health and Safety Code Section ~~114299.5~~ 114315 regarding the availability of adequate toilet facilities for use by food service personnel.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE CHAPTER 9.18 "VENDING ON
STREETS, SIDEWALKS AND PRIVATE PROPERTY" SECTION
9.18.050-A.-1. RELATING TO VENDING LOCATION; AND
REPEALING AND REENACTING SECTION 9.18.110 IN ITS
ENTIRETY RELATING TO SANITATION

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI
AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 9.18.050-A.-1. "Location" – is hereby amended
to read as follows:

9.18.050 Location.

- A. A vendor may locate and operate in the public right-of-way subject to the following conditions:
 - 1. A vendor shall not operate within three hundred feet of:
 - a.) school grounds; or
 - b.) a park, playground, or city operated recreation center where a City-authorized food concession exists. Where permissible, vendor operations at City parks shall be restricted to the streets and sidewalks around the perimeter of the parks.

SECTION 2. Lodi Municipal Code Section 9.18.110 "Sanitation" – is hereby repealed and reenacted to read as follows:

9.18.110 Sanitation.

- A. All motorized food wagons or conveyances shall operate out of a commissary pursuant to California Health and Safety Code Section 114287.
- B. All motorized food wagons or conveyances shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the vendor of the motorized food wagon or conveyance shall pick up all refuse generated by such operation within a twenty-five foot radius of the vehicle before such vehicle is moved. No vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.
- C. A motorized food wagon or conveyance shall comply with California Health and Safety Code §114315 regarding the availability of adequate toilet facilities for use by food service personnel.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty (30) days from and after its passage and approval.

Approved this ____ day of _____, 2008

JOANNE MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

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State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 20, 2008, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2008, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL, City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

K-1

From: Randi Johl
Sent: Wednesday, August 20, 2008 11:48 AM
To: 'Allen Martin'; City Council
Cc: Blair King; Joseph Wood; Jeff Hood
Subject: RE: Item K-1 - DO NOT ALLOW MOBILE VENDORS

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Aandi Johl, City Clerk

From: Allen Martin [<mailto:twogun1939@sbcglobal.net>]
Sent: Wednesday, August 20, 2008 11:40 AM
To: City Council
Subject: Item K-1 - DO NOT ALLOW MOBILE VENDORS

We reside next to Peterson Park and would be greatly affected by mobile vendors, if they were allowed to do business here. We are already picking up trash that is left behind by the hoards of people using the park - one with no off-street parking - and the thought of having meals served just outside our home is untenable, what with the extra trash generated therefrom. Please don't allow that to happen here.

Allen Martin
Corner of Evergreen and Applewood

K-1

From: Randi Johl

Sent: Wednesday, August 20, 2008 11:49 AM

To: 'Ozminkowski's of Lodi'; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katrakian; Larry Hansen

Cc: Blair King; Joseph Wood; Jeff Hood

Subject: RE: Vending on Streets

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Ozminkowski's of Lodi [mailto:ozmin@sbcglobal.net]

Sent: Wednesday, August 20, 2008 11:32 AM

To: Randi Johl; Susan Hitchcock; Bob Johnson; JoAnne Mounce; Phil Katrakian; Larry Hansen

Subject: Vending on Streets

Good Morning,

I just had a neighbor at my door informing me about the possible change to the current vending code and how it could impact our neighborhood. I live across the street from Peterson Park on Elm. We are already bumper to bumper with cars parked up and down the streets during soccer practices and tournaments. Extra pedestrian traffic and car traffic always adds the risk of an accident. I understand these vendors needing to make a living but, I moved into this neighborhood with the expectation that I wouldn't have a taco truck parked in front of my house.

The park does not provide a parking lot so there would be very little space to even park one truck let alone two or three. There will be garbage left in and outside the park because that is what happens. This is a quiet residential area. Not a business area. I am a soccer mom who travels on weekends with my son. We expect to leave a park to find lunch or pack our own. Please don't change the current vending ordinance

Also, I never would have known this issue was even being considered if a neighbor clear across the park didn't make the effort to keep his neighbors informed. What's the best way to find out about these kinds of changes before it's too late?

Thank you for your time and consideration.

Pam Ozminkowski

K-1

Randi Johl

From: Randi Johl
Sent: Wednesday, August 20, 2008 3:58 PM
To: 'Flemmers'
Cc: Blair King; Joseph Wood; Jeff Hood
Subject: RE: Taco Trucks

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Flemmers [mailto:flemmers@lodirealestate.net]
Sent: Wednesday, August 20, 2008 2:45 PM
To: Randi Johl
Subject: Taco Trucks

Dear Council,

I failed to mention in my first e-mail about this 10 minute rule you would enact. Who is going to monitor this time limit? When you have twenty people lined up ordering multiple items, how in the world can this truck cook up this stuff in ten minutes so the truck can move and the next one pull in its place? If someone on the council is in favor of this, maybe you can come on out and be the enforcer of this ridiculous idea. The calls this is going to give the police will be a waste of time. They have more important things to do than moving trucks around and from the talk of neighbors I think this will happen.

Thanks again,
Bruce Flemmer

08/20/2008

K-1

Randi Johl

From: Randi Johl
Sent: Wednesday, August 20, 2008 3:57 PM
To: 'DBlis95@aol.com'
Cc: Blair King; Joseph Wood; Jeff Hood
Subject: RE: K-1 Mobile Vendor Ordinance

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: DBlis95@aol.com [mailto:DBlis95@aol.com]
Sent: Wednesday, August 20, 2008 3:14 PM
To: Randi Johl
Subject: K-1 Mobile Vendor Ordinance

As residents of West Lodi. we are opposed to the changing of Item K-1, Mobile Vendor Ordinance.

Eugene & Donna Bliss
95 Applewood Drive

It's only a deal if it's where *you* want to go. Find your travel deal here.

K-1

From: Randi Johl
Sent: Wednesday, August 20, 2008 12:03 PM
To: 'Flemmers'; City Council
Cc: Blair King; Joseph Wood; Jeff Hood
Subject: RE: taco trucks

Thank you for your email. It was received by the City Council and forwarded to the appropriate department(s) for information, response and/or handling.

Randi Johl, City Clerk

From: Flemmers [mailto:flemmers@lodirealestate.net]
Sent: Wednesday, August 20, 2008 12:02 PM
To: City Council
Subject: taco trucks

Dear Council members,

It has been brought to my attention that Taco trucks are trying to pass an ordinance which would allow them access to park their trucks at local parks. I live near Petersen park and see the soccer activity there on a daily basis. It has a lot of soccer activity there throughout the week with cars parked in front of homes both legally and illegally. The allowance of these trucks to park and do food service to the people would be a safety issue for the people. The litter these people leave behind would also increase. Many neighbors I know do not think this is a good idea.

Thank you,
Bruce Flemmer